

Minutes

Meeting date: 8 January 2015

Meeting time: 10am

Meeting location: HM Treasury, 1 Horse Guards Road

**Government members
present:**

HM Treasury Lowri Khan (Chair);
Catherine McCloskey;
Dave Hunter; Nicola Pittam

Bank of England Peter Brierley,
George Johnston

*Prudential Regulatory
Authority* Karen Braun-Munzinger;
Henry Knox;

*Financial Conduct
Authority* Paul Rich; Adeshini Naidoo;
Sean O'Grady; Heather Pilley;
Gareth Reed; Sophia Reeves

*Financial Services
Compensation Scheme* Karen Gibbons;
Casey McGrath

Insolvency Service Clare Merrifield

**Industry
members present:**

*Association of
Business Recovery
Professionals* Mike Pink; Richard Heis;

British Bankers Association Simon Hills; Adam Cull

*Building Societies
Association* Jeremy Palmer

City of London Law Society Dorothy Livingston

*Financial Markets
Law Committee* Jennifer Enwezor

*International Swaps and
Derivatives Association* Ed Murray

Agenda Item 1: Panel administration

- 1.1 Draft minutes of the meeting on 9 September would be circulated by email.
- 1.2 An Annual Report summarising the Minutes for the 2013-14 year would normally have been published in the Autumn, but given the fewer number of meetings will now be combined with the report for the year ending March 2015.

Agenda Item 2: Revised Code of Practice

- 2.1 HM Treasury outlined the progress on legislative changes to the resolution regime, with secondary legislation laid in December 2014 to implement the EU Bank Recovery & Resolution Directive (BRRD). These came into force at the start of January.
- 2.2 The revised draft of the Code of Practice, circulated in advance of the meeting, contained updates to reflect this transposition of the Directive and other changes including the creation of the FCA and PRA in April 2013. It was hoped to finalise the draft and publish a new Code of Practice by the end of January.
- 2.3 The new Code is in two sections: the first relating to Banks, Building Societies and Investment Firms; the second covering Central Counterparties (CCPs) and group companies (on which the Panel was consulted during 2014). New resolution tools now included in Section 1 include: asset separation; bail-in; asset management vehicles; and safeguards.
- 2.4 Panel members asked for clarification of:
 - the need for consistency in the wording of resolution objectives between the Code and BRRD;
 - the treatment of UK-regulated institutions operating in other jurisdictions;
 - how measures resulting from the current consultation on EBA rules would be interact with the Code;
 - detail of valuation methods, including the 'No Creditor Worse Off' valuation and the use of a going-concern comparator;
 - the interaction between bail-in and the mandatory write-down of capital instruments.
- 2.5 One Panel member intended to write to HM Treasury about the implications for FSCS levy-payers of proposals for the FSCS to make a contribution to resolution costs.
- 2.6 In response HM Treasury noted that, while they considered that the legislative work was complete, there was more work to be done on operationalising the new measures. Bank of England noted that issues around the use of stabilisation tools were also recognised by the Financial Stability Board (FSB) in setting international standards.
- 2.7 The Chair thanked Panel members of their input to date, and noted that further work on definitions and operational responses to resolutions would be needed as the consultation on the draft revised Code is concluded.

Agenda Item 3: Information updates

- 3.1 Special Administration Regime for Investment Firms: HM Treasury updated on progress on implementing the recommendations of Peter Bloxham's review. Further consultation is expected later in the year, and this could impact on the timing of the next Panel meeting.
- 3.2 EU Non-bank Resolution Proposals: HM Treasury updated on progressing developing an EU-wide non-bank resolution regime, and the need to ensure that the pace of progress was consistent across jurisdictions. A proposal was expected from the EU Commission later in 2015, but they were keen to ensure that European CCPs remained globally competitive.
- 3.3 Panel members pointed out that there it would not be possible simply to adopt the bank resolution tools for non-banks, where different factors would need to be considered, including the scale of daily transaction flows in some of them. Consistency with the FSB global standards (in the Annex to the 'Key Attributes' document) would be important.

Agenda Item 4: Any other business

- 4.1 The Bank of England updated Panel members on the forward agenda of the FSB, including:
 - proposals issued on Total Loss Absorbing Capacity, for consultation until February, and a major impact study in the first half of 2015;
 - protocols on cross-border recognition of resolution actions, including contractual mechanisms to give extra-territorial effect to local legislative rules;
 - work by the Crisis Management Sub-group on: funding of resolutions; and operational continuity of critical services;
 - a further wave of Resolvability Assessments for Globally Systemically Important Investment Banks (G-SIBs);
 - resolution strategies for Globally Systemically Important insurance firms.